



JIM JONES  
Director

# County of Los Angeles INTERNAL SERVICES DEPARTMENT

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*"To enrich lives through effective and caring service"*

May 8, 2014

To: Each Supervisor

From: Jim Jones *Jim Jones*  
Director of Internal Services

Mark Saladino *Mark Saladino (for)*  
Treasurer and Tax Collector

John Naimo *John Naimo*  
Acting Auditor-Controller

Subject: **PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM -  
FEDERAL HOUSING AND FINANCE AUTHORITY LETTER TO  
GOVERNOR BROWN ON THE CALIFORNIA RESERVE FUND  
(AGENDA OF MAY 6, 2014, ITEM 30)**

Item 30 on the May 6, 2014, Board agenda addressed residential Property Assessed Clean Energy (PACE) financing programs, which provide public financing for private property energy projects through placement of voluntary contractual assessments. This item, which has been continued to the agenda of May 20, 2014, included the following recommendations:

*"The Auditor-Controller (A-C) and the Chief Executive Office (CEO), in accordance with AB 811, are requesting that your Board authorize the placement of the Western Riverside Council of Governments (WRCOG), Property Assessed Clean Energy (PACE) assessments on the County tax rolls for those cities within the County that have enrolled in the WRCOG Home Energy Renovation Opportunity (HERO) program. The A-C also requests that your Board authorize the A-C to negotiate a fee agreement with WRCOG to place the PACE assessments on the County tax rolls.*

*The Internal Services Department (ISD) and Treasurer & Tax Collector (TTC) request that your Board delegate authority to the Directors of ISD and TTC to take the necessary steps to evaluate the implementation of the County's residential PACE program and to instruct the CEO, ISD, and TTC to return when completed to seek your Board's approval of a recommendation regarding the County's residential PACE program and to report any risks associated with such program."*

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The Board letter indicated that the Federal Housing and Finance Authority (FHFA) had in the past expressed concerns about PACE and issued formal guidance to the Federal National Mortgage Association (Fannie Mae) and the Federal Mortgage Home Loan Mortgage Corporation (Freddie Mac) on the risks associated with mortgages with voluntary contractual assessments that retain senior status over mortgages.

The Board letter also indicated that California has created a PACE Reserve Fund to protect lenders against losses incurred under default or foreclosure due to the senior status of the contractual assessments, and that we believed this Reserve Fund mitigated the stated concerns of the FHFA.

#### **FHFA LETTER TO GOVERNOR BROWN**

On May 1, 2014, the FHFA sent a letter (attached) to Governor Brown indicating that the California PACE Reserve Fund does not mitigate its concerns, and that the FHFA has not changed its position on PACE contractual assessments. We want to clarify how this FHFA letter impacts the recommendations in our Board Letter.

Our residential PACE Board letter asks that ISD and TTC proceed with several steps in order to provide a recommendation to your Board at a later date on the disposition of the County's residential PACE program, including conducting a solicitation of potential residential PACE program administrators. One of the outcomes of this solicitation would be to determine how potential program administrators would address the FHFA position and protect the County and homeowners from any adverse impacts. FHFA's current position, and any possible future FHFA action, will be part of a broad risk assessment associated with residential PACE programs.

Ultimately, the decision to move forward with a County residential PACE program will be a matter of Board policy determination.

If you have any questions, please contact Jim Jones at (323) 267-2101, Mark Saladino at (213) 974-2101, or John Naimo at (213) 974-8484.

JJ:HW:dm

Attachment

c: Chief Executive Officer  
Executive Officer, Board of Supervisors  
County Counsel



**FEDERAL HOUSING FINANCE AGENCY**  
**Office of the Director**

May 1, 2014

The Honorable Edmund G. Brown Jr.  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

**RE: California Property Assessed Clean Energy Program**

Dear Governor Brown:

Thank you for your letter of April 28, 2014 about California's Property Assessed Clean Energy (PACE) program. The Federal Housing Finance Agency's (FHFA) General Counsel has been in touch with your staff, and I appreciate the time and materials they have provided concerning California's PACE program and intentions in creating the Reserve Fund.

I am writing to inform you that FHFA is not prepared to change its position on California's first-lien PACE program and will continue to prohibit the Enterprises from purchasing or refinancing mortgages that are encumbered with first-lien PACE loans. California's PACE program would allow local governments to finance energy-related home improvement projects by placing an assessment on a homeowner's property in a first lien position, resulting in the subordination of an existing Enterprise-backed mortgage to a second lien position. The effect of this is to increase the risks and possibility of losses to the Enterprises. Additionally, because these loans run with the land, the ongoing monthly assessments for PACE loans are passed on to any subsequent property owners – including after a foreclosure or other distressed sale – unless fully paid off beforehand.

In making this determination, FHFA has carefully reviewed the Reserve Fund created by the State of California and, while I appreciate that it is intended to mitigate these increased losses, it fails to offer full loss protection to the Enterprises. The Reserve Fund is not an adequate substitute for Enterprise mortgages maintaining a first lien position and FHFA also has concerns about the Reserve Fund's ongoing sustainability.

Should you wish to discuss this matter further, I would be happy to discuss alternatives to first-lien PACE programs with you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Melvin L. Watt", is written over a light blue horizontal line.

Melvin L. Watt

xc: The Honorable Barbara Boxer  
The Honorable Zoe Lofgren